

UNITED STATES DISTRICT COURT,  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SAMANTHA SKINDELL,

Petitioner,

and

JUSTIN SKINDELL,

Respondent.

**Case No. C22-05110 MJP**

**ANSWER AND AFFIRMATIVE  
DEFENSE TO VERIFIED COMPLAINT  
AND PETITION**

COMES NOW Respondent Justin Skindell, by and through his attorney, and respectfully submits this Answer and Affirmative Defenses to Petitioner Samantha Skindell's Verified Complaint and Petition for Issuance of a Show Cause Order and For Return of Child to Canada ("Petition"). The Respondent hereby answers and responds to the Petitioner's allegations in numbered paragraphs corresponding to the paragraph numbers of the Petition as follows:

**ANSWERS**

**I. Introduction**

1. The Respondent admits that Samantha Skindell is a resident of British Columbia, Canada seeking the return of her minor child to Canada. The Respondent denies that he wrongfully retained the minor child in the United States of America ("U.S.A.") and avers that the U.S.A. is the child's habitual residence. The Respondent

1 lacks knowledge or information sufficient to form a belief regarding what Ms. Skindell  
2 knew or consented to on or about November 27, 2021. The Respondent neither admits  
3 nor denies the remaining allegations in Paragraph 1 of the Petition because they do not  
4 require a response.

5           2.     The Respondent neither admits nor denies the allegations in Paragraph 2  
6 of the Petition because they do not require a response.

7           3.     The Respondent neither admits nor denies the allegations in Paragraph 3  
8 of the Petition because they do not require a response.

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10 **II.     Jurisdiction and Venue**

11           4.     The Respondent admits the allegations in Paragraph 4 of the Petition.

12           5.     The Respondent admits the allegations in Paragraph 5 of the Petition.

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14 **III     Parties and Wrongfully Removed Children**

15           6.     The Respondent denies the allegation in the headline to Section III that  
16 the child was wrongfully removed. The Respondent admits that Samantha Skindell is a  
17 Canadian citizen, and that she was born on August 28, 1991. The Respondent lacks  
18 knowledge or information sufficient to form a belief regarding Ms. Skindell's current  
19 employment and the permanency of her current residence. The Respondent neither  
20 admits nor denies the remaining allegations in Paragraph 6 of the Petition because they  
21 do not require a response.

22           7.     The Respondent admits that he is a citizen of the U.S.A., and that he  
23 currently resides in Pierce County, Washington. The Respondent denies that he is a  
24 current permanent resident of Canada. The Respondent lacks knowledge or  
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1 information sufficient to form a belief regarding the remaining allegations in Paragraph  
2 7 of the Petition.

3 8. The Respondent admits that he and Ms. Skindell are the parents of S.S.,  
4 who was born in Olympia, Washington in October 2019. The Respondent also admits  
5 that S.S. is a minor child under the age of 16.  
6

7 9. The Respondent admits that he and Ms. Skindell were married on  
8 February 6, 2015, in the U.S.A. The Respondent denies that he has continuously lived  
9 in Canada since August 2, 2021.

10 10. The Respondent admits that he and Ms. Skindell resided together as  
11 husband and wife in Canada between August 2, 2021, and November 2, 2021, and  
12 avers that on November 2, 2021, Ms. Skindell told him that their marriage was over.  
13 The Respondent denies that he and Ms. Skindell resided in a "marital residence" and  
14 avers that they temporarily stayed with Ms. Skindell's parents in the basement of their  
15 house located in the tiny remote village of Roberts Creek, British Columbia, Canada.  
16

17 11. The Respondent lacks knowledge or information sufficient to form a belief  
18 regarding the allegations made in Paragraph 11 of the Petition.  
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20 12. The Respondent admits that Ms. Skindell was present for the birth of S.S.,  
21 and that she is listed at the child's mother on the birth certificate. The Respondent  
22 denies that Ms. Skindell resided with him and their child at the parties' marital residence  
23 located in British Columbia, Canada.  
24

25 13. The Respondent denies that he wrongfully retained the child in the U.S.A.  
26 and avers that the U.S.A. is the child's habitual residence. The Respondent denies that  
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1 Ms. Skindell saw him and the child on a daily basis between October 27, 2019, and  
2 November 27, 2021.

3 14. The Respondent admits that on November 27, 2021, he did not return to  
4 Canada from the U.S.A. with the child. The Respondent lacks knowledge or information  
5 sufficient to form a belief regarding whether Ms. Skindell consented to this or any other  
6 aspect of her state of mind. The Respondent admits that he lives in Pierce County,  
7 Washington. The Respondent denies that he is presently wrongfully retaining the child  
8 and avers that the U.S.A. is the child's habitual residence.  
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10 15. The Respondent admits that Ms. Skindell has asked to speak with the  
11 child via telephone and/or video-chat application. The Respondent denies the  
12 remainder of the allegations in Paragraph 15 of the Petition and avers that Ms. Skindell  
13 currently has contact with the child via video-chat application every day.  
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15 16. The Respondent lacks knowledge or information sufficient to form a belief  
16 regarding the allegations made in Paragraph 16 of the Petition.  
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#### 18 **IV. Justin Skindell's Violation of the Convention and ICARA**

19 17. The Respondent denies that he violated the Convention and ICARA. The  
20 Respondent denies that he wrongfully removed the child from Canada, that he  
21 wrongfully retained the child in the U.S.A., and that Roberts Creek, British Columbia,  
22 Canada was the child's habitual residence within the meaning of Article 3 of the  
23 Convention. The Respondent lacks knowledge or information sufficient to form a belief  
24 regarding the remaining allegations made in Paragraph 17 of the Petition.  
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26 18. The Respondent neither admits nor denies the allegations in Paragraph  
27 18 of the Petition because they do not require a response.  
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1           19. The Respondent denies the allegation made in Paragraph 19 of the  
2 Petition and addresses the allegations made in the subparts of Paragraph 19 as follows:

3           a. The Respondent admits that Ms. Skindell is a citizen of Canada.  
4 The Respondent admits that he has a permanent resident permit for Canada but denies  
5 that he is a permanent resident of Canada and avers that he is a permanent resident of  
6 the U.S.A currently residing in University Place, Washington.  
7

8           b. The Respondent denies the allegations made in Paragraph 19.b of  
9 the Petition and avers that the parties have not resided together since November 27,  
10 2021, and that he has not lived and worked in Canada since November 2021.

11           c. The Respondent admits that he and Ms. Skindell were married on  
12 February 6, 2015, in the U.S.A. The Respondent denies the remaining allegation made  
13 in Paragraph 19.c of the Petition.  
14

15           d. The Respondent denies that the child lived continuously in Canada  
16 until he was wrongfully retained in the U.S.A. and avers that the U.S.A. is the child's  
17 habitual residence.  
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19           e. The Respondent lacks knowledge or information sufficient to form  
20 a belief regarding the allegations made in Paragraph 19.e of the Petition.

21           f. The Respondent denies the allegation made in Paragraph 19.f of  
22 the Petition and avers that when he and the child returned to their habitual residence in  
23 the U.S.A., the child had no Canadian social insurance number and had never been  
24 provided medical services in Canada.  
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1           g.     The Respondent denies the allegation made in Paragraph 19.g of  
2 the Petition.

3           h.     The Respondent denies the allegation made in Paragraph 19.h of  
4 the Petition.

5           i.     The Respondent denies the allegation made in Paragraph 19.i of  
6 the Petition and avers that he discussed with Ms. Skindell his desire to move back to  
7 the U.S.A. with the child before he returned to their habitual residence in the U.S.A.

8           j.     The Respondent lacks knowledge or information sufficient to form  
9 a belief regarding the allegations made in Paragraph 19.j of the Petition and avers that  
10 the child has health care coverage in Washington provided by Apple Health.

11           k.     The Respondent denies the allegation made in Paragraph 19.k of  
12 the Petition and avers that he received no healthcare or dentistry in Canada.

13           18.    The Respondent denies all allegations made in the second Paragraph 18  
14 of the Petition and avers that he was the child's primary caregiver while he and the child  
15 were in Canada.

16           19.    The Respondent denies all allegations made in the second Paragraph 19  
17 of the Petition and avers that Ms. Skindell's custodial rights are defined by Washington  
18 law because Washington is the child's habitual residence.

19           20.    The Respondent denies all allegations made in the Paragraph 20 of the  
20 Petition.

21           21.    The Respondent denies all allegations made in the Paragraph 21 of the  
22 Petition.



1           22.    The Respondent neither admits nor denies the allegations in Paragraph  
2 22 of the Petition because they do not require a response.

3           23.    The Respondent neither admits nor denies the allegations in Paragraph  
4 23 of the Petition because they do not require a response.

5           24.    The Respondent neither admits nor denies the allegations in Paragraph  
6 24 of the Petition because they do not require a response.

7           25.    The Respondent neither admits nor denies the allegations in Paragraph  
8 25 of the Petition because they do not require a response.

9           26.    The Respondent denies the allegation made in Paragraph 26 of the  
10 Petition and avers that he did not wrongfully retain the child in the U.S.A. because the  
11 U.S.A. is the child's habitual residence.

12           27.    The Respondent lacks knowledge or information sufficient to form a belief  
13 regarding the allegations made in Paragraph 27 of the Petition.

14           28.    The Respondent neither admits nor denies the allegations in Paragraph  
15 28 of the Petition because they do not require a response.

16           29.    The Respondent neither admits nor denies the allegations in Paragraph  
17 29 of the Petition because they do not require a response.

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21                   **AFFIRMATIVE DEFENSE**

22                   **FIRST DEFENSE**

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24           As a matter of law, the Hague Convention does not apply because the parties  
25 herein did not share a settled intent to change the family's habitual residence from the  
26 U.S.A. to Canada, and the Respondent and the child did not become acclimated to  
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Canada. Therefore, the Respondent did not remove the child from his habitual residence, and the removal is not actionable in under the Convention.

DATED March 2, 2022.



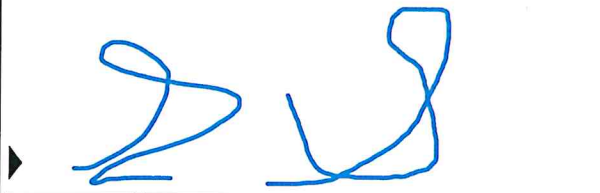
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Robert C. Bennett, WSBA # 28385  
Attorney for the Respondent

#### VERIFICATION

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided in my statement above are true and correct.

Signed at (city and state): University Place, Washington. Date: March 2, 2022.

  
Justin Skindell, Respondent